

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES DARREN HARNAGE,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO. 2:05-CV-60-F
)
JAMES BEAMAN,)
)
Defendant.)

RECOMMENDATION OF THE MAGISTRATE JUDGE

The complaint in this 42 U.S.C. § 1983 action was filed by James Darren Harnage (“Harnage”), a county inmate, on January 24, 2005. In this complaint, Harnage complains of an unlawful arrest, false imprisonment and malicious prosecution.

The court recently ascertained that Harnage was no longer at the address he provided for service as he had escaped from confinement. The order of procedure entered in this case specifically directs the plaintiff to immediately inform the court of any new address. *See Order of January 26, 2005 - Court Document No. 5* at 4. Since Harnage failed to comply with the aforementioned directive, an order was entered requiring that on or before April 8, 2005 Harnage inform this court of his present address. *See Order of April 1, 2005 - Court Document No. 14*. Additionally, the court cautioned Harnage that his failure to comply with the aforementioned order would result in a recommendation that this case be dismissed. *Id.* As of the present date, Harnage has failed to advise the court of his present

address as required by the orders entered in this case. In light of Harnage's status as an escapee, the court does not anticipate receiving such a response from the plaintiff.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for failure of the plaintiff to properly prosecute this action and his failure to comply with the orders of this court. It is further

ORDERED that on or before May 4, 2005 the parties shall file objections to this Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). See *Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). See also *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit

handed down prior to the close of business on September 30, 1981.

Done this 22nd day of April, 2005.

/s/ Vanzetta Penn McPherson
UNITED STATES MAGISTRATE JUDGE